

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LISA NEAL,

Plaintiff,

v.

CITY OF BAINBRIDGE ISLAND,

Defendant.

CASE NO. 3:20-cv-06025-DGE

ORDER ON DISCOVERY
DISPUTE STATEMENT (DKT. NO.
164)

On January 8, 2024, the parties filed a joint discovery dispute statement regarding the deposition of Defendant City of Bainbridge Island’s 30(b)(6) witness, Christine Brown. (Dkt. No. 164.) In light of the Court’s “broad discretion to tailor discovery narrowly and to dictate the sequence of discovery,” *Crawford-El v. Britton*, 523 U.S. 574, 598 (1998), the Court declines to entertain the dispute and will not be scheduling the requested conference. The 30(b)(6) deposition should have been completed in August 2023—not months later and just before the deadline for dispositive motions.

1 In April of 2023, the Court issued an order denying Plaintiff's motion for relief from
2 discovery deadlines, but permitting Plaintiff to conduct a 30(b)(6) deposition of the City after the
3 formal close of discovery. (Dkt. No. 117 at 8–9.) The Court directed that “[t]he parties shall
4 inform the Court no later than May 1, 2023 when this deposition is to be conducted.” (*Id.* at 8.)
5 In compliance with the Court's directive, the parties submitted a joint status report on May 1,
6 2023, informing the Court that the deposition would “take place on August 29, 30, or 31, 2023,”
7 and providing potential dates for trial. (Dkt. No. 136.) The following day, the Court
8 acknowledged the parties' representations regarding the August deposition date and trial
9 availability, and “issued an order setting new trial and pre-trial dates *based on the parties'*
10 *representations.*” (Dkt. No. 137 at 1–2 (emphasis added).) The Court stressed that the dates
11 could “be changed only by order of the Court, not by agreement of counsel or the parties,” and
12 that the Court would “alter these dates only upon good cause shown.” (Dkt. No. 138 at 2.)


13 The parties were therefore on notice that the Court set the pre-trial and trial deadlines
14 based on the parties' representation that the 30(b)(6) deposition would take place in August.
15 (Dkt. No. 137 at 1–2.) Nonetheless, without informing the Court and without considering the
16 foreseeable impact on case deadlines, Plaintiff decided to reschedule the deposition yet again¹—
17 this time for three months later, on December 1, 2023. (Dkt. No. 158-2 at 14.) And in
18 contravention of the Court's directive that the 30(b)(6) deposition be “conduct[ed] . . . as
19 previously scheduled on February 24, 2023” (Dkt. No. 117 at 8–9), Plaintiff's new notice of
20 deposition contained a number of additional topics that were not present in the February 24, 2023
21 notice of deposition (Dkt. No. 158-2 at 2–5, 14–18).

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23 ¹ The 30(b)(6) deposition, which was first noticed for February 13, 2023, has been scheduled and
24 rescheduled numerous times. (See Dkt. Nos. 71; 136; 158.)

1 While Plaintiff does not specify the relief sought in the instant discovery dispute, the
2 Court can only assume Plaintiff wishes to require Ms. Brown to attend another deposition or to
3 require the City to provide the information sought in some other fashion. But as the Court
4 previously explained, tactical decisions to delay depositions have consequences. (Dkt. No. 117
5 at 8.) Here, the late-stage deposition resulted in submission of the discovery dispute statement
6 just *four days* before the January 12, 2024 cutoff for dispositive motions (Dkt. No. 138 at 1) and
7 roughly nine months after the formal close of discovery (Dkt. No. 35 at 1). Entertaining the
8 dispute would invariably require extending the deadlines in this case. Although Plaintiff has
9 maintained that rescheduling the deposition for December provided the parties “ample time prior
10 to the dispositive motion cutoff” (Dkt. No. 149 at 4), that was clearly not so.²

11 Given the repeated delays in taking the 30(b)(6) deposition and apparent disregard for the
12 Court’s order establishing pre-trial and trial deadlines, the Court will not consider the discovery
13 dispute statement.

14 Dated this 10th day of January 2024.

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17 David G. Estudillo
18 United States District Judge
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22 ² Another justification for rescheduling advanced by Plaintiff is that the December deposition date
23 would “allow[] Defendant more time to complete its production in response to Plaintiff’s [public
24 records requests].” (Dkt. No. 149 at 4; *see also* Dkt. No. 160 at 5–6.) This does not change the
Court’s analysis. The Court explained last April that “‘methods of discovery may be used in any
sequence’ and ‘discovery by one party does not require any other party to delay its discovery.’”
(Dkt. No. 117 at 7.)